## INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT



We Protect Hoosiers and Our Environment.

Mitchell E. Daniels, Jr. Governor

Thomas W. Easterly Commissioner

100 North Senate Avenue Indianapolis, Indiana 46204 (317) 232-8603 Toll Free (800) 451-6027 www.idem.IN.gov

March 15, 2010

#### VIA CERTIFIED MAIL

7002 0510 0002 7964 5659

Mr. John Greaney Vigo Coal Company 528 Main Street Suite 202 Evansville, Indiana 47708

Dear Mr. Greaney:

Re: Request to Modify

NPDES Permit No. ING040103 IDNR Permit No. S-0318

Cypress Creek Mine 3700 New Harmony Road

Boonville, Indiana Warrick County

Your NPDES permit application submittal dated November 19, 2009, to request modification of the above-referenced permit, have been reviewed. The submittal requested the removal of Outfall 001 (latitude 38°, 05', 35", longitude 87°, 18', 10") and 002 (latitude 38°, 05', 36", longitude 87°, 18', 07"), both discharging to Cypress Creek, Outfall 007 (latitude 38°, 06', 49", longitude 87°, 17', 47"), discharging to an unnamed tributary to Cypress Creek, and Outfall 005, which you stated had never been constructed. Also you requested that outfalls 009 (latitude 38°, 05', 17", longitude 87°, 17', 40", discharging to Cypress Creek), 011 (latitude 38°, 05', 51", longitude 87°, 17', 04", discharging to an unnamed tributary to Cypress Creek) and 012 (latitude 38°, 07', 22", longitude 87°, 17', 13", discharging to an unnamed tributary to Otter Creek) be changed to alkaline mine drainage status, from undetermined status.

The request has been processed in accordance with Section 402 and 405 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), and IDEM's permitting authority under IC 13-15. Our office has received confirmation from the IDNR in Jasonville, Indiana that Outfall 005 was never constructed, and that Outfall 002 is physically no longer a water body. They have further confirmed that Outfalls 001 and 007 have both been routed to discharge through existing outfall 009, and therefore these are no longer considered to be outfall locations. In addition, pH and total iron data submitted on past DMRs for Outfalls 009, 011, and 012 support the request that the mine drainage status of these outfalls be reclassified as alkaline. Therefore your petition to remove Outfalls 001, 002, 005, and 007 from this permit, and to change mine drainage status for Outfalls 009, 011, and 012, has been approved in accordance with Indiana Rules promulgated under 327 IAC 15-7. All outfalls listed in the first table of Attachment 1 to this correspondence will now be included for coverage at this site.

The NPDES general permit identification number assigned to this facility in the previous approval will continue to apply, as will all other testing and reporting that are required under 327 IAC 15-7 using the forms that were sent to you previously. Should you need additional copies of this form it is also available on the internet at the following web site:

An Equal Opportunity Employer

#### http://www.in.gov/idem/5104.htm

327 IAC 15-7 is also available on the internet at the following website:

#### http://www.in.gov/idem/4087.htm

Additionally, you will continue to receive the computer generated preprinted federal NPDES DMR forms. Both the state and federal forms need to be completed and submitted on a routine basis. If you do not receive the preprinted DMR forms in a timely manner, please call this office at 317-232-8670.

This modification shall become effective on March 1, 2010, unless a person aggrieved or adversely affected by the acceptance appeals this decision. Coverage under 327 IAC 15-7 for all remaining outfalls remains effective, and will expire on August 31, 2010. In order to receive authorization to discharge beyond the date of expiration, the permittee shall submit such information and forms as required by the Indiana Department of Environmental Management no later than ninety (90) days prior to the date of expiration.

Please note that any person who is adversely affected or aggrieved by approval under the cited NPDES general permit rule may, within eighteen (18) days from the mailing date of this notification, appeal this acceptance by filing a written petition for administrative review with the Office of Environmental Adjudication, in accordance with IC 4-21.5-3-7. This petition constitutes a request for an adjudicatory hearing. The procedure for appeal is outlined in more detail on the attached page.

The Office of Environmental Adjudication will provide parties who request review of this approval with notice of prehearing conferences, preliminary hearings, hearing, and stays or orders disposing of all proceedings. Nonparties may receive such notices without intervening and formally becoming parties in the proceeding by requesting copies of such notices from the Office of Environmental Adjudication.

If you have any questions regarding this letter, please contact Ms. Sheri L. Jordan of our office at (317) 232-8703.

Sincerely,

Catherine Hess, Chief
Permits Administration Section

Office of Water Quality

Slj/cc:

Warrick County Health Department

## ATTACHMENT 1

# Vigo Coal Company – Cypress Creek Mine

## NPDES PERMIT NO. ING040103

IDNR PERMIT NO. <u>S-0318</u>

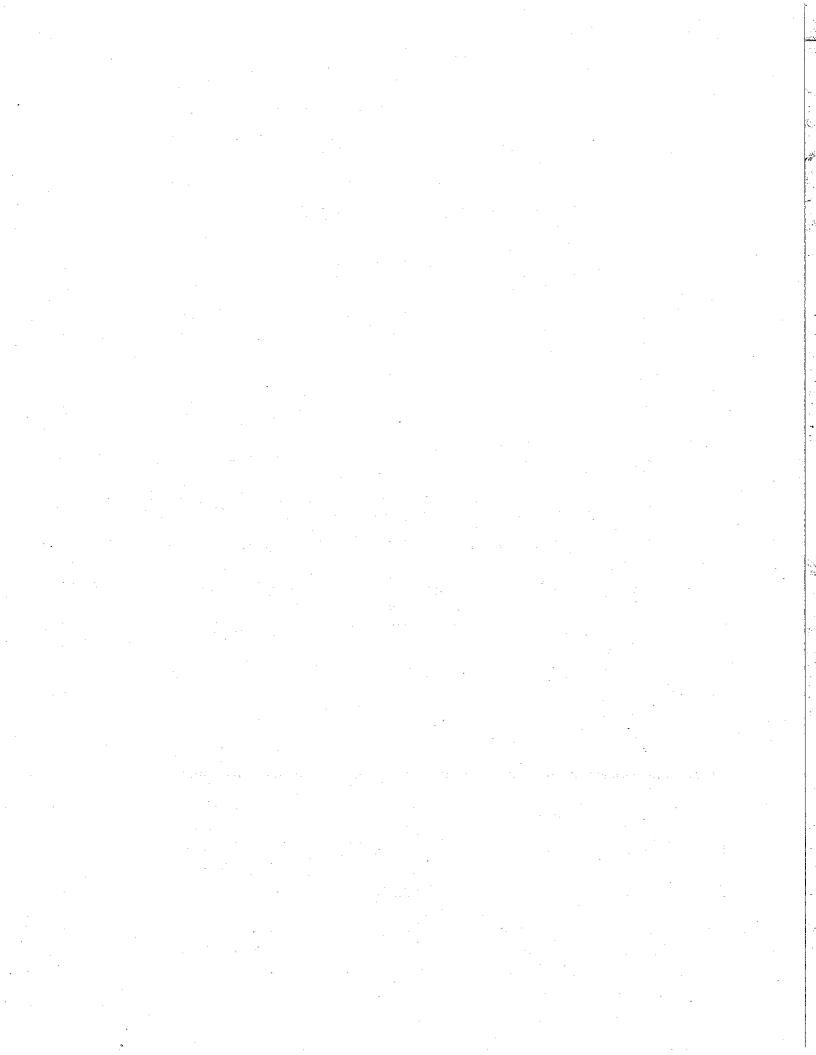
EFFECTIVE DATE: March 1, 2010

# OUTFALLS PERMITTED FOR THIS FACILITY

OUTFALL	DNR BASIN	LATITUDE	LONGITUDE	MINE DRAINAGE STATUS	RECEIVING WATER
003	S-0318 S-003	38°, 06', 22"	87°, 16', 47"	Alkaline	UNNAMED TRIB. TO OTTER CREEK
004	S-0318 S-004	38°, 07', 37"	87°, 17', 14"	Alkaline	OTTER CREEK
006	S-0318 S-006	38°, 07', 47"	87°, 17′, 18"	Alkaline	OTTER CREEK
008	S-0318 S-008	38°, 05', 34"	87°, 17', 30"	Alkaline	UNNAMED TRIB. TO CYPRESS CREEK
009	S-0318 S-009	38°, 05', 17"	87°, 17', 40"	Alkaline	CYPRESS CREEK
010	S-0318 S-010	38°, 04', 19"	87°, 19', 17"	Alkaline	CARTER TRAYLOR DITCH
011	S-0318 S-011	38°, 05', 51"	87°, 17', 04"	Alkaline	UNNAMED TRIB. TO CYPRESS CREEK
012	S-0318 S-012	38°, 07', 22"	87°, 17', 13"	Alkaline	UNNAMED TRIB. TO OTTER CREEK
013	S-0318 S-013	38°, 08', 00"	87°, 17', 54"	Alkaline	UNNAMED TRIB. TO OTTER CREEK

# The following outfalls have been removed and are no longer covered under this permit:

001	S-0318 S-001	38°, 05', 35"	87°, 18', 10"	Alkaline	CYPRESS CREEK
002	S-0318 S-002	38°, 05', 36"	87°, 18', 07"	Alkaline	CYPRESS CREEK
005	S-0318 S-005			Proposed	
007	S0318 S-007	38°, 06', 49"	87°, 17', 47"	Undetermined	UNNAMED TRIB. TO CYPRESS CREEK



# STATE OF INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

## PUBLIC NOTICE NO. 2010 - 3D -GP

DATE OF NOTICE: March 15, 2010

The Office of Water Quality issues the following NPDES GENERAL PERMIT.

#### **MODIFICATION**

VIGO COAL CYPRESS CREEK MINE, Permit No. ING040103, WARRICK COUNTY, Boonville, IN. This facility will discharge non-process wastewater from a coal mining, processing and reclamation site. This modification is being issued because the company is removing 4 Outfalls and is changing from undetermined to alkaline mine drainage status. The Notice of Intent (NOI) letter submitted complies with the requirements in 327 IAC 15-7, Facilities Engaged in Mining of Coal, Coal Processing and Reclamation Activities. Permit Writer: Sheri Jordan at 317/232-8703.

#### PROCEDURES TO APPEAL

General Permit documents are available for inspection at IDEM, Office of Water Quality/Permit Section, IGCN, 100 N Senate Ave, Indianapolis, IN, Room 1203, from 9 - 4, Monday-Friday (copies 10¢ per page). The General Permit is also available at the local Health Department. Please tell others you think would be interested in this matter.

Appeal Procedure: Any person affected by the issuance of the Final Permit may appeal by filing a Petition for Administrative Review with the Office of Environmental Adjudication within eighteen (18) days of the date of this Public Notice. Any appeal request must be filed in accordance with IC 4-21.5-3-7 and must include facts demonstrating that the party requesting appeal is the applicant; a person aggrieved or adversely affected or is otherwise entitled to review by law.

Timely filing: The Petition for Administrative Review must be received by the Office of Environmental Adjudication (OEA) within 18 days of the date of this Public Notice; either by U.S. Mail postmark or by private carrier with dated receipt. This Petition for Administrative Review represents a request for an Adjudicatory Hearing, therefore must:

- > state the name and address of the person making the request;
- > identify the interest of the person making the request;
- > identify any persons represented by the person making the request;
- > state specifically the reasons for the request;
- > state specifically the issues proposed for consideration at the hearing;
- identify the Final Permit Rule terms and conditions which, in the judgment of the person making the request, would be appropriate to satisfy the requirements of the law governing this NPDES Permit rule.

If the person filing the Petition for Administrative Review desires any part of the NPDES Final Permit Rule to be stayed pending the outcome of the appeal, a Petition for Stay must be included in the appeal request, identifying those parts to be stayed. Both Petitions shall be mailed or delivered to the address here: **Phone:** 317/232-8591.

Environmental Law Judge
Office of Environmental Adjudication
IGC – North Building- Rm 501
100 N. Senate Avenue
Indianapolis IN 46204

Stay Time frame: If the Petition (s) is filed <u>within</u> eighteen (18) days of the mailing of this Public Notice, the effective date of any part of the permit, within the scope of the Petition for Stay is suspended for fifteen (15) days. The Permit will become effective again upon expiration of the fifteen (15) days, unless or until an Environmental Law Judge stays the permit action in whole or in part.

Hearing Notification: Pursuant to Indiana Code, when a written request is submitted, the OEA will provide the petitioner or any person wanting notification, with the Notice of pre-hearing conferences, preliminary hearings, hearing stays or orders disposing of the Petition for Administrative Review. Petition for Administrative Review must be filed in compliance with the procedures and time frames outlined above. Procedural or scheduling questions should be directed to the OEA at the phone listed above.



## Indiana Department of Environmental Management

NPDES General Permit Notice of Intent (NOI) Letter Submittal Application
327 IAC 15-7 Facilities Engaging in Mining of Coal, Coal Processing and Reclamation Activities

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appli	cable. Yo	ou may at	tach additional shee	ets if they are needed.
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II. GENERAL INFORMA							NAMES OF THE PROPERTY OF THE P	god,		
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Vigo Coal Operating Co., Inc.			1		<del></del>			=		
STREET ADDRESS			Degree	Minute	Second	Degree	Minute	Second		
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d FACILITY MAILING ADDRESS			Company of the Company of the Company	Anna Salata Anna Salata Sa	AL LOCATION	IF DIFFER	ENT FROM	Id		
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CITY	STATE	ZIP CODE	CITY			STA	IE Z	P CODE		
Boonville	IN	47601						=======================================		
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#### III. CONTACT INFORMATION AUTHORIZED SIGNATORY This section applies to the responsible corporate officer and/or alternate person whe is authorized in writing by the responsible corporate officer to carry signatory responsibilities for the facility under 327 TAC 15-4-3 (g). Please complete all boxes or mark N/A forthonapplicable. If the signatory is not a corporate officer please also submit the letter from the responsible corporate officer granting him/her this authority. d ALTERNATE PERSON TO ANSWER QUESTIONS a. APPLICANT SIGNATORY CONTACT PERSON AND TITLE Alex Messamore Permits Manager John Greaney Permits Engineer e. ALTERNATE PERSON'S TELEPHONE b. Applicant signatory contact person telephone 812-759-8446 812-759-8446 C. APPLICANT EMAIL ADDRESS 1. ALTERNATE PERSON SEMAIL ADDRESS jgreaney@vigocoal.com amessamore@vigocoal.com

IV. CONTACT INFORMATION OTHER:			
DISCHARGE MONITORING REPORTS  CONTACT AND MAILING INFORMATION	c. CONTACT AND CO	MPANY NAME	
CONTACT CARD WATCH CANADAN CONTACT CON	John Greaney Vigo Coal Operatin	g Co., Inc.	
a. CONTACT TELEPHONE NUMBER	d. STREET ADDRESS		
812-759-8446	528 Main St. Suite 2	202	
b. CONTACT EMAIL ADDRESS	e. <u>CITY</u>	f STATE	g ZIP CODE
jgreaney@vigocoal.com	<b>Evansville</b>	IN	47708
ANNUAL FEE AND FINANCIAL GONDACT AND BILLING ADDRESS		NTACT PERSON NAME	
CONTRACT AIND BEEEING APPAREOU	Vigo Coal Company	<b>Y</b>	
	Nancy Shigley		
h CONTACT TELEPHONE NUMBER	k STREET ADDRESS		
812-759-8446	528 Main St. , Suite	202	
i CONTACT EMAIL ADDRESS	1. <u>CITY</u>	m. <u>STATE</u>	n. ZIP CODE
nshigley@vigocoal.com	Evansville	Indiana	47708
OTHER CONTACT AND MAILING INFORMATION	q. <u>COMPANY AND CO</u>	NTACT PERSON NAME	
(SPECIFY BELOW)		· · · · · · · · · · · · · · · · · · ·	
o. CONTACT TELEPHONE NUMBER	r. STREET ADDRESS	·	
p. CONTACT EMAIL ADDRESS	s. <u>CITY</u>	t. <u>STATE</u>	u. ZIP CODE
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### V. RULE QUALIFICATION:

The purpose of this rule is to regulate wastewater discharges from surface mining, underground mining, and reclamation projects which utilize sedimentation basin treatment for pit dewatering and surface run-off and to require best management practices for storm water run-off.

Does this facility meet these requirements?

(please check one)

✓		

124202-12200	
200000	
RALLES.	
2007/10/06	

Please provide a brief description of the facility operation that results in the discharge. You may attach additional sheets:

Cypress Creek Mine is a surface coal mine that is engaged in mining, storing, and blending coal, as well as land reclamation activities.

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a IDEM OUTFALL NO	BASIN NO									Sept. 3. Acres 100 Sept. 200 Sept. 100 Sept. 200 Sept. 2		A STATE OF THE STA			DRAINAGE	discharge to a STORM	
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this	ıs a reque	st to ADD,	DELETE, o	r CHANGE MINE DRAINAGE STATUS of one or more outfalls:
I TDEM OUTBALL NO:	b. DNR BASIN NO.	c DEL, ADD, or CHANGE	d DATE OF CHANGE	e REASON FOR THE CHANGE: EXPLAIN IN DETAIL AND ATTACH CONFIRMING DOCUMENTATION IN THE FORM OF INSPECTORS REPORTS, LAB DATA, ETC
001	S001	DEL	5/31/2002	Drainage from this basin discharges through outfall 009 downstream
002	S002	DEL	5/31/2002	Drainage from this basin discharged through outfall 009 downstream and has recently been mined through; it no longer exists.
005	S005	DEL		Basin S005 was never constructed and is not needed
007	S007	DEL	11/21/2006	Discharge from this outfall re-routed through Outfall 009
009	S009	CHANGE	4/10/2002	Mine Drainage Status is "Alkaline". See attached reports
011	S011	CHANGE	6/05/2002	Mine Drainage Status is "Alkaline". See attached reports
012	S012	CHANGE	2/15/2005	Mine Drainage Status is "Alkaline". See attached reports

#### VIII. TOPOGRAPHICAL MAP

A topographical map must be submitted with this application. The map must include the following items:

- (A) the location of the coal mining operation, including contiguous facility property lines, shown clearly and identified by name and by mark;
- (B) the location of each numbered outfall shown clearly and identified by number and by mark;
- (C) the receiving streams and tributaries to them that each outfall discharges to shown clearly and identified by name;
- (D) any existing permanent structures or roads in the area shown clearly and identified by name.

Please attach this completed map to the application and submit both together.

#### IX. PROOF OF PUBLICATION

It is required that a public notice statement be published in a newspaper of largest circulation in the area where the discharge(s) will be occurring. This publication must be in the newpaper for a minimum of one day and must include the following language: (your facility name, address, address of the location of the discharging facility, and the streams receiving the discharge(s)) "is submitting a Notice of Intent letter to notify the Indiana Department of Environmental Management of our intent to comply with the requirement under 327 IAC 15-7 to discharge wastewater associated with the mining of coal, coal processing and /or reclamation activities. Any person aggrieved by this action may appeal in writing to the Environmental Law Judge of the Office of Environmental Adjudication for an adjudicatory hearing on the question of whether this facility should operate under this NPDES general permit rule. An appeal must be postmarked no later than fifteen (15) days from the date of this public notice. Such a written request for an adjudicatory hearing must:

- (A) state the name and address of the person making the request;
- (B) identify the interest of the person making the request;
- (C) identify any persons represented by the person making the request;
- (D) state with particularity the reasons for the request;
- (E) state with particularity the issues proposed for consideration at the hearing; and
- (F) state with particularity the reasons why the NPDES general permit rule should not be available to the discharger identified in this notice.

Any such request shall be mailed or delivered to:

Office of Environmental Adjudication Indiana Government Center – North 100 North Senate Avenue, Room N501 Indianapolis, Indiana 46204"

Please attach proof of publication of this statement from the newspaper to the application and submit both together.

#### X. POTENTIALLY AFFECTED PERSONS FORM

Pursuant to IC 4-21.5 it is required that a Potentially Affected Person form be completed and submitted with this application. The form and instructions are attached.

Please fill out this form in its entirety and submit it with the application.

#### XI. REQUIRED FEES:

A \$50 application fee is required to be submitted with applications for new permits, permit modifications, and permit renewals in accordance with IC 13-18-20-12. In addition the \$500 annual fee is required to be submitted for NEW APPLICATIONS at the time of submitting the application.

Please list amount submitted \$50.00, attach to and submit with application. Checks or money orders shall be made payable to IDEM.

#### XII. NOTIFICATION OF INDIANA DEPARTMENT OF NATURAL RESOURCES

It is required in all circumstances that a copy of this application is sent to the Indiana Department of Natural Resources (IDNR) Division of Reclamation in Jasonville, Indiana.

Please forward a copy of this application as is required and identify the party to whom it was addressed and the date that it was mailed: Thomas M. Good November 20, 2009

#### XIII. CERTIFICATION STATEMENT

It is required by 327 IAC 15-4-3(g)(3) that the following statement shall be included in the application. The authorized signatory representative (as defined by 327 IAC 15-5-3(g)(2) and identified in item IIIa above) makes the following certification by signing and dating this section of the application below:

"I certify under penalty of law that this document and all its attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

John Greaney, Permits Engineer	812-759-8446
Name and official title (type or print)	Are: Code and phone No.
John Treoney	11-19-2009
Significance	Date signed

Submit completed form and attachments to the following address:

Indiana Department of Environmental Management
Office of Water Quality – Mail Code 65-42
NPDES Permits Section
100 North Senate Avenue
Indianapolis, Indiana 46204-2251

#### **JORDAN, SHERI**

From:

Huff, Todd A

Sent:

Friday, December 11, 2009 3:32 PM

To:

YORDAN, SHERI

Cc:

Mayes, Brock A; Phillips, David I.

Subject:

RE: Vigo Coal Cypress Creek Mine

Sheri, Concerning your inquiry for the S-318 INGO40103 basins/outfalls, I was informed today by the inspector of the following:

(1) Drainage from outfall 001 does discharge to downstream outfall 009.

(2) 002 is physically no longer a water body (it is gone via mining advancement to a final cut pit).

(3) Discharge from 007 has been re-routed to discharge to outfall 009.

(4) 005 was never constructed.

Therefore, yes, 002 and 005 are gone or don't exist. Also, yes, quality is applicable to change mine drainage status of outfalls 009, 011, and 012 to alkaline status (from undetermined). Finally, concerning removal of 001 and 007, it is the inspectors (and my) opinion that it would be OK to do so (in this scenario), since they both only discharge to 009, and that location would be actively monitored at the alkaline status. However, respectfully, given that's only 2 opinions, considering this site-specific scenario, and IDEM's prior policy has been non-removal, I think the decision to remove or not-remove outfalls from any ING permit should be on a case by case basis. I have copied Director Mayes and Phillips to see if they have any thought on that subject. Hope that helps. TAH

----Original Message----

From: JORDAN, SHERI

Sent: Friday, December 11, 2009 10:36 AM

To: Huff, Todd A Cc: JORDAN, SHERI

Subject: Vigo Coal Cypress Creek Mine

Hi Todd,

Here's another one for you. I have a request from John Greaney in regards to Vigo Coal's Cypress Creek Mine, NPDES permit ING040103, DNR permit S-00318, in Warrick County. He wants to drop outfalls 001, 002, 005, and 007 from the permit. DNR basin numbers all correspond to outfall numbers. He states that drainage from outfall 001 discharges through outfall 009, downstream. 002 as well, and he states outfall 002 has actually been removed. Discharge from 007 has been rerouted to discharge through outfall 009. And 005 he states has not been constructed. Can your folks confirm that 002 and 005 are gone (or have never existed)? Also, I'd like your thoughts, and the inspectors, on 001 and on 007. We've traditionally said that we won't remove an outfall from a permit as long as it is still there, because it could discharge the future even if it is not discharging now. What do you think?

Also they want to change mine drainage status of outfalls 009, 011, and 012 to alkaline, from undetermined status. Every other outfall at the site is alkaline already. Is there sufficient evidence, as far as the inspector is concerned, that the whole site can be considered alkaline? I'll also check the DMR's on my end for pH, but I don't know what else I need to look at to make that determination.

Thanks for your input Todd.

Sheri L. Jordan

Indiana Department of Environmental Management



528 Main St. Suite 202 Evansville, Indiana 47708 Phone: (812)-759-VIGO (8446)

Phone: (812)-759-VIGO (8446) Fax: (812)-759-COAL (2625)

November 20, 2009

Sheri L. Jordan
Indiana Department of Environmental Management
Office of Water Quality
100 N. Senate Ave.
Mail Code 65-42
Indianapolis, IN 46204-2251

RE: Cypress Creek Mine

Permit No. S-0018

NPDES Gen. Permit No. ING040103

Dear Ms. Jordan:

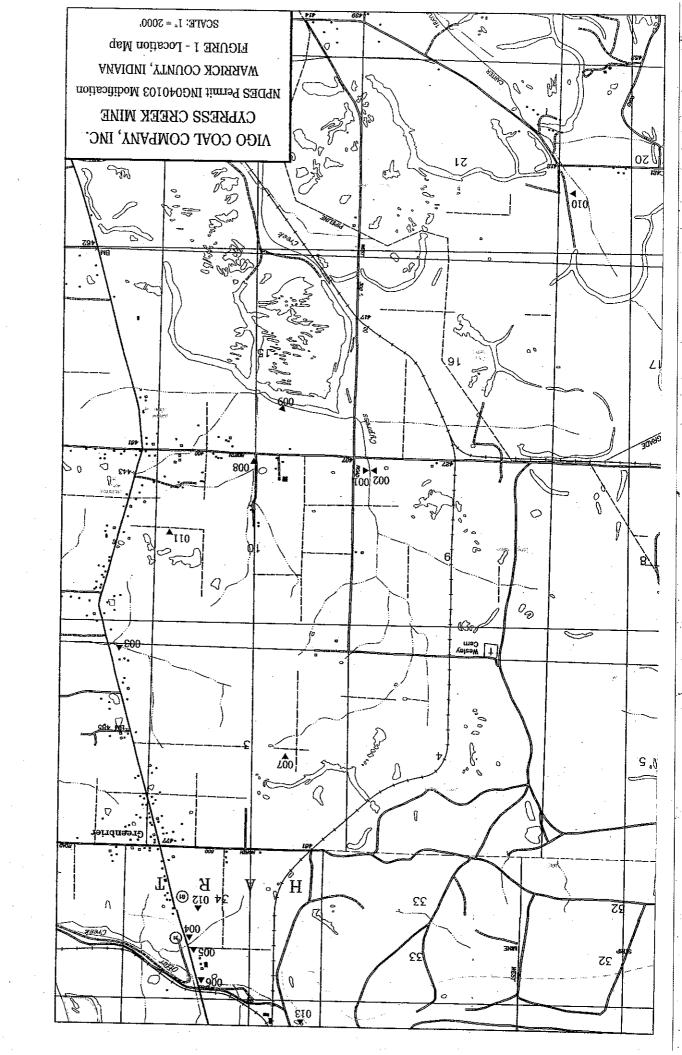
Vigo Coal Operating Co., Inc. would like to modify our NPDES General Permit No. ING040103 to delete discharge points 001, 002, 005, and 007. At the same time we would like to change the Mine Drainage Status of discharge points 009, 011, and 012 to "Alkaline".

I have enclosed a NPDES General Permit Notice of Intent Letter Submittal Application for review.

Should you have any questions regarding this submittal, please contact me at (812) 759-8462.

Sincerely,

John Greaney Permits Engineer



	g. Is this discharge, if, Name of to a STORM SEWER RECEIVING WATER	Cypress Creek	Cypress Creek	UNT Otter Creek	Otter Creek		Otter Creek	UNT Cypress Creek	UNT Cypress Creek	Cypress Creek	Carter Traylor Ditch	UNT Cypress Creek	UNT Offer Creek	UNT Offer Creek
	g isthis discharge, in Name of o.a.STORM.SEWER RECEIVING	ON	No	ON.	oN		No	S.	No	ON.	No	No	oN.	No
	f MINE DRAINAGE STATUS	Alkaline	Atkaline	Alkaline	Alkaline		Alkaline	Undetermined	Alkaline	Undetermined	Alkaline	Undetermined	Undetermined	Alkaline
	B. DRY WEATHER BASEFLOW	No Flow	No Flow	No Flow	No Flow		No Flow	No Flow	No Flow	No Flow	No Flow	No Flow	No Flaw	No Flow
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MATION	LATITUDE	38	38	38	38	Not Constructed	86	38	38	38	38	38	38	38
-24	A Transport of the Park of the	\$001	\$002	5003	S004	3005	9008	S007	800S	600S	\$010	S011	S012	S013
VI - OLITEALI (NEO)	a. IDEM OUTFALL NG:	001	002	003	004	900	900	007	800	600	010	011	012	013